IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Somnath Chatterjee. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No.154/2002

and

M.S. Khamesra. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 619/2002

...

Date of Order: November 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Pradeep Shah, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By these instant criminal miscellaneous petitions, the petitioners seek quashing of the proceedings pending against them.

The matters were part-heard on 30-8-2006 and it was contended by the learned counsel for the petitioners that vide communication dated 29-12-1997, the petitioners requested

the trial Court to get the samples analysed again but the fertilizer in question have not been sent for second test and, therefore, the proceedings against the petitioners deserve to be quashed.

From the record, it appears that complainant Rameshwar Lal Kumwat, Fertilizer Inspect & Assistant Director, Agriculture (Extension), Gulabpura, district Bhilwara, filed the complaints against the petitioners and others for the offence under Section 19 (1) (a) and (b) of the Fertilizer Control Order, 1985 (for short, "the Order, 1985" hereinafter) read with Section 3/7 of the Essential Commodities Act, 1955 (for short, "the Act, 1955" hereinafter). The samples taken from the petitioners, on being analysed by the Chemical Examiner, were found to be mis-branded. The petitioners requested the trial Court to send the samples for second test, which was declined to be done by the trial Court on the ground that there is no such provision under the Order, 1985.

There being no such provision for second test of the sample under the Order, 1985 like the provision of Section 13 (2) of the Prevention of Food Adulteration Act and the Drugs & Cosmatics Act etc., in my view, it is not a fit case to quash the proceedings against the petitioners on the ground that the trial Court declined to send the samples for second test for want of such a provision under the Order, 1985.

The criminal miscellaneous petitions are, therefore, dismissed.

(H.R. PANWAR), J.

mcs